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~~ATTORNEY GENERAL OF NEW JERSEY~~

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FILED WITH THE BOARD OF
VETERINARY MEDICAL EXAMINERS

ON

February 18, 1998
Harold R. O'Neal

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MONMOUTH COUNTY
DOCKET NO: *MCN-C-33-98*

PETER VERNIERO, ATTORNEY
GENERAL OF NEW JERSEY and
THE NEW JERSEY BOARDS OF
CHIROPRACTOR EXAMINERS,
MEDICAL EXAMINERS, AND
VETERINARY MEDICAL EXAMINERS:

Plaintiffs,

v.

WENDY SHANKIN-COHEN and
HARVEY COHEN

Defendants.

CIVIL ACTION

CONSENT ORDER AND JUDGMENT

This matter was opened to the Court by Peter Verniero, Attorney General of New Jersey, counsel for plaintiffs New Jersey State Board of Chiropractor Examiners, New Jersey State Board of Medical Examiners, and New Jersey State Board of Veterinary Medical Examiners, Deputy Attorney General Marilyn Bair appearing, upon the filing of a Verified Complaint alleging that defendant Wendy Shankin-Cohen engaged in the unlicensed practice of medicine in violation of N.J.S.A. 45:9-18, and defendant Harvey Cohen engaged in the unlicensed practice of chiropractic medicine in violation of

N.J.S.A. 45:9-14.5 and the unlicensed practice of veterinary medicine in violation of N.J.S.A. 45:16-8.1.

The allegations in the Complaint are based upon a report by the Enforcement Bureau, New Jersey Division of Consumer Affairs, which conducted covert investigations of Ms. Shankin-Cohen and Mr. Cohen in connection with their advertised services as holistic health consultants who practiced classic homeopathy. Mr. Cohen, who also practiced "holistic animal nutrition", advertised himself as "Dr. Harvey Cohen, D.C.", and Ms. Shankin-Cohen advertised herself as "Wendy Shankin-Cohen, N.D."

The investigative report disclosed that during an appointment with Ms. Shankin-Cohen, an undercover investigator complained of headaches, blurred vision and lack of energy. Although the investigator stated that she had not seen a medical doctor about these problems, Ms. Shankin-Cohen did not suggest that the investigator seek medical advice. Instead, Ms. Shankin-Cohen diagnosed the investigator's problems as relating to her monthly periods and to hormonal changes after the birth of the investigator's son. Further, Ms. Shankin-Cohen treated the problem by telling the investigator to take a homeopathic remedy named SEPIA 200c, as well as taking a number of other foods, minerals, and supplements. Even when the investigator came back a week later complaining that she felt worse, Ms. Shankin-Cohen did not recommend that she see a medical doctor. Instead, she told the investigator that she may feel worse before she feels better, and she should continue with the prescribed remedies.

Ms. Shankin-Cohen's alleged actions relative to the investigator violate N.J.S.A. 45:9-18 which provides in relevant part that a person shall be regarded as practicing medicine who "holds himself out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical condition, or who shall either offer or undertake by any means or methods to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical condition..." She further violated the statute when she allegedly signed her name "Dr. Cohen" on a patient order form for remedies from Metagenics New York. N.J.S.A. 45:9-18 provides in relevant part that "[a]ny person shall be regarded as practicing medicine and surgery with the meaning of this chapter, who shall use the words or letters 'Dr.', 'doctor', 'professor', 'M.D.', or 'M.B.' in connection with his name..."

Moreover, Ms. Shankin-Cohen used the designation "N.D." (Degree of Naturopathy) in her written advertisements and on her letter-head stationary. However, naturopathy, when offered in this State as a method of analysis for medical disorders as broadly defined in the Medical Practice Act, is a service requiring professional licensure. Further, Ms. Shankin-Cohen may not practice homeopathic medicine in New Jersey. The term "homeopathy" is expressly included within the statutory framework, N.J.S.A. 45:9-4 and 9-15, as within the regulatory jurisdiction of the State Board of Medical Examiners.

During an appointment with Mr. Harvey Cohen in his role as a holistic animal nutritionist, an undercover investigator brought his dog Hank to Mr. Cohen explaining that Hank had problems walking early in the morning; he moved around very slowly; and he seemed to experience discomfort. After physically examining the dog by feeling his bones, joints and spine, Mr. Cohen allegedly advised the investigator that Hank did not have apparent tendinitis, bursitis or hip dysplasia. By this alleged diagnoses, Mr. Cohen violated N.J.S.A. 45:16-8.1 which provides in relevant part the "[a]ny person shall be regarded as practicing veterinary medicine...who, either directly or indirectly, diagnoses, prognoses, treats, administers, prescribes, operates on, manipulates, or applies any apparatus or appliance..."

The investigative report further revealed that Mr. Cohen used the designation "D.C.", indicating a doctor of chiropractic medicine, in his advertisements and on his letter head stationary disseminated in New Jersey even though at no time relevant to this matter did he have a license in New Jersey to practice chiropractic. The use of "D.C." in this manner violates N.J.S.A. 45:9-14.5 which provides in relevant part that [i]t shall be unlawful for any person, not duly licensed in this State to practice chiropractic, to use terms, titles, words or letters which would designate or imply that he or she is qualified to practice chiropractic..."

It appearing that, while neither admitting nor denying the allegations in the Verified Complaint, Ms. Shankin-Cohen and Mr.

Cohen have agreed to the entry of a Consent Order and Judgment settling this matter; and it appearing that the parties wish to resolve this matter without a hearing, and for good cause shown;

IT IS ON THIS *16th* DAY OF *February* 1997
HEREBY ORDERED AND AGREED THAT:

1. Wendy Shankin-Cohen shall immediately cease and desist from the practice of medicine, including homeopathy. Further, Ms. Shankin-Cohen shall immediately cease and desist from using the designation "Dr." or any other designation in connection with her name which may imply that she is a practitioner of medicine in any of its branches.

2. Ms. Shankin-Cohen may use the designation "N.D." and/or the word "naturopathy" as long as it is not represented or offered to be a method of analysis for medical disorders as broadly defined in the Medical Practice Act. Further, at any time whatsoever that Ms. Shankin-Cohen uses the designation "N.D." or indicates in any way her practice of naturopathy, it must be immediately follow with the written disclaimer: "I have no degree or license to diagnose or treat any medical ailment or disease. Persons requiring medical attention should consult a licensed medical doctor." This disclaimer must be used at all times without exception.

3. Notwithstanding the above, and provided that Ms. Shankin-Cohen's conduct is not in violation of State law or municipal health ordinances, she is not precluded from offering information on nutrition, exercise, hygiene, relaxation and good health, so

long as it is not represented by her as intended to treat or cure a specific medical condition or disorder.

4. Ms. Shankin-Cohen shall be assessed a civil penalty of three thousand dollars (\$3,000.00) for the unlicensed practice of medicine. The penalty shall be paid by certified check or money order made payable to the State of New Jersey and shall be submitted to the Board of Medical Examiners. The civil penalty shall be paid on a monthly installment basis for thirty-six months with each payment being in the amount of eight-three dollars and thirty-three cents (\$83.33) commencing on the first day of the month after the entry of the Consent Order and Judgment. Payment shall be sent to Kevin Earle, Executive Director, Board of Medical Examiners, 140 East Front Street, Trenton, New Jersey 08625. If Ms. Shankin-Cohen fails to make any monthly payment in a timely manner as provided, the entire remaining balance shall immediately become due and payable without further notice.

5. Harvey Cohen shall immediately cease and desist from the practice of veterinary medicine.

6. Notwithstanding the above, and provided that Mr. Cohen's conduct is not in violation of State law or municipal health ordinances, he is not precluded from offering information on animal nutrition, exercise and good health, so long as it is not represented by him as intended to treat or cure a specific medical condition or disorder.

7. Mr. Cohen shall be assessed a civil penalty of one thousand, five hundred dollars (\$1,500.00) for the unlicensed

practice of veterinary medicine. The penalty shall be paid by certified check or money order made payable to the State of New Jersey and shall be submitted to the Board of Veterinary Medical Examiners within forty-five days of the entry date of the within Order. Payment shall be sent to Dorcas O'Neal, Executive Director, Board of Veterinary Medical Examiners, 124 Halsey Street, 6th Floor, Newark, New Jersey 07102.

8. Mr. Cohen shall immediately cease and desist from using the designation "D.C." in his advertisements and other material disseminated in New Jersey in connection with his advertising himself as a holistic health consultant, a holistic animal nutritionist, and any other health related practice, until such time as licensure is secured from the New Jersey State Board of Chiropractic Examiners.

9. Mr. Cohen shall be assessed a civil penalty of seven hundred and fifty dollars (\$750.00) for the unlicensed practice of chiropractic which shall be paid by certified check or money order made payable to the State of New Jersey and shall be submitted to the Board of Chiropractic Examiners within forty-five days of the entry date of the within Order. Payment shall be sent to Laura Anderson, Executive Director, Board of Chiropractic Examiners, 124 Halsey Street, 6th Floor, Newark, New Jersey 07102.

10. Ms. Shankin-Cohen and Mr. Cohen shall be jointly and severally liable for the costs of the investigation to the State in

the amount of five thousand, eight hundred and thirty-seven dollars (\$5,837.00) which shall be paid by certified check or money order made payable to the State of New Jersey. The costs shall be paid on a monthly installment basis for thirty-six months with each payment being in the amount of one hundred and sixty-two dollars and fourteen cents (\$162.14) commencing on the first day of the month after the entry of the Consent Order and Judgment. Payment shall be sent to Kevin Earle, Executive Director, Board of Medical Examiners, 140 East Front Street, Trenton, New Jersey 08625. Mr. Earle shall make the appropriate disbursements of the payments. If any monthly payment is not made by the defendants in a timely manner as provided, the entire remaining balance shall immediately become due and payable without further notice.

11. If subsequent to the within Order, it is shown that Ms. Wendy Shankin-Cohen has engaged in the unlicensed practice of medicine in violation of N.J.S.A. 45:9-18, 45:9-4, and 45:9-15, it shall be deemed a second and subsequent offense pursuant to N.J.S.A. 45:1-25.

12. If subsequent to the within Order, it is shown that Mr. Harvey Cohen has engaged in the unlicensed practice of chiropractic medicine in violation of N.J.S.A. 45:9-14.5 and/or the unlicensed practice of veterinary medicine in violation of N.J.S.A. 45:16-8.1,

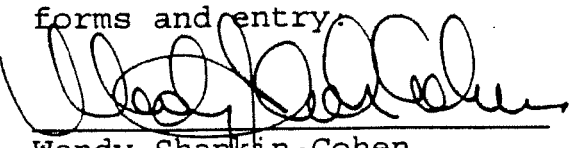
it shall be deemed a second and subsequent offense pursuant to

N.J.S.A. 45:1-25.


HON. CLARKSON S. FISHER, JR., P.J.C.H.

Consented to as to
forms and entry.


2/3/98


Wendy Shankin-Cohen
Defendant

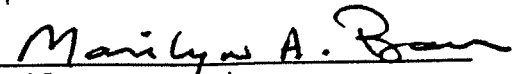
PETER VERNIERO
ATTORNEY GENERAL OF NEW JERSEY

2/6/98

2/3/98


Harvey Cohen
Defendant

By


Marilyn A. Bair
Deputy Attorney General

2/4/98


Frank S. Gaudio, Esq.